

Mark A. Serlin, CSBN: 122155  
 SERLIN & WHITEFORD, LLP  
 700 E Street  
 Sacramento, CA 95814  
 Telephone: (916) 446-0790  
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 Email: mserlin@globelaw.com

Attorneys for Judgment Creditor  
 CRYSTAL LEI

UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEMAS YAN,

Appellant,

vs.

TONY FU, CRYSTAL LEI, WEI SUEN,  
 BRYANT FU, and STELLA HONG  
 CHEN,

Appellees.

CASE NO. 3:11-cv-01814-RS

**DECLARATION OF MARK A. SERLIN IN  
 SUPPORT OF APPLICATION FOR  
 ORDER TO SHOW CAUSE RE  
 CONTEMPT**

I, Mark A. Serlin, declare as follows:

1. I am an attorney duly licensed to practice law by the State of California and am authorized to practice in this Court. I am counsel to judgment creditor Crystal Lei (“Lei”) in the above-captioned matter. I make this declaration based on personal knowledge, and if called as a witness to testify as to matters stated herein, I would be willing and competent to do so.

2 On May 12, 2017, I caused a debtor’s examination order and subpoena duces tecum to be personally served on judgment debtor Demas Yan (“Yan”); a true copy of that proof of service is attached hereto as Exhibit A. The subpoena, a true copy of which is attached hereto as Exhibit B, required Yan to bring various documents with him to the examination.

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/s/ *Mark A. Serlin*  
 MARK A. SERLIN

Exhibit A

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) SERLIN & WHITEHEAD 700 E STREET SACRAMENTO, CA 95814		TELEPHONE NO. (916) 446-0790		FOR COURT USE ONLY	
		REFERENCE NUMBER 00267524-01			
ATTORNEY FOR (NAME)					
Insert name of court, judicial district or branch court, if any, and post office and street address UNITED STATES DISTRICT COURT,					
SHORT NAME OF CASE YAN vs. FU					
PROOF OF SERVICE		DATE:	TIME:	DEPT/DIV:	CASE NUMBER: 3:11-CV-01814-RS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action;

I served the:

APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION; CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS AT TRIAL OR HEARING AND DECLARATION;

Name: DEMAS YAN

Date of Delivery: May 12, 2017 HDATE:

Time of Delivery: 09:28 am

Place of Service: 400 MCALLISTER ST. #302  
SAN FRANCISCO, CA 94102

(Business)

Manner of Service: **Personal Service - By Personally Delivering copies to the person on whom the service is required.**

Fee for service: \$ 75.00

JUDICIAL COUNCIL FORM, RULE #982 (A)(23)

☒ Registered: . . . San Francisco . . . County,  
Number: . . . 1180 . . .  
Expiration Date: 10/14/2018  
PREFERRED LEGAL SERVICES, INC.  
601 Van Ness Ave, Suite J  
San Francisco, CA 94102  
(415) 882-2250

302/00267524-01

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

on: . . . May 12, 2017 . . .  
at: . . . San Francisco . . . , California.

Signature:

Name: NATE FREED

Title: (i) registered California process server

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Mark A. Serlin, CSBN: 122155 SERLIN & WHITEFORD, LLP 700 E Street Sacramento, CA 95814  TELEPHONE NO.: (916) 446-0790 FAX NO.: (916) 446-0791 E-MAIL ADDRESS: mserlin@globelaw.com ATTORNEY FOR (Name): Crystal Lei	FOR COURT USE ONLY
NAME OF COURT: U.S. District Court STREET ADDRESS: 450 Golden Gate Avenue MAILING ADDRESS: 450 Golden Gate Avenue CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Gordon D. Schaber Courthouse	
PLAINTIFF/PETITIONER: Demas Yan  DEFENDANT/RESPONDENT: Tony Fu, et al.	
<b>CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION</b>	CASE NUMBER: 3:11-cv-01814-RS

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

Demas Yan

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date: June 27, 2017	Time: 9:00 a.m.	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Div.:	<input checked="" type="checkbox"/> Room: F
b. Address: 450 Golden Gate Avenue, 15th Floor, San Francisco, CA 94102				

2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

3. YOU ARE (item a or b must be checked):

- a. ☒ Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
- b. ☐ Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number; your name; and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney: Mark Serlin b. Telephone number: (916) 446-0790

5. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

**DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.**

Date issued: May 9, 2017

Mark A. Serlin  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney for Judgment Creditor Crystal Lei

(Declaration in support of subpoena on reverse)

(TITLE)

Page 1 of 3

PLAINTIFF/PETITIONER: Demas Yan	CASE NUMBER:
DEFENDANT/RESPONDENT: Tony Fu, et al.	3:11-cv-01814-RS

The production of the documents, electronically stored information, or other things sought by the subpoena on page one is supported by (check one):

☒ the attached affidavit or ☐ the following declaration:

**DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS AT TRIAL OR HEARING**  
(Code Civ. Proc., §§ 1985, 1987.5)

1. I, the undersigned, declare I am the ☐ plaintiff ☐ defendant ☐ petitioner ☐ respondent  
☐ attorney for (specify): ☐ other (specify):

in the above-entitled action.

2. The witness has possession or control of the documents, electronically stored information, or other things listed below, and shall produce them at the time and place specified in the Civil Subpoena for Personal Appearance and Production of Records at Trial or Hearing on page one of this form (specify the exact documents or other things to be produce; if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

☐ Continued on Attachment 2.

3. Good cause exists for the production of the documents, electronically stored information, or other things described in paragraph 2 for the following reasons:

☐ Continued on Attachment 3.

4. The documents, electronically stored information, or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

☐ Continued on Attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

see attached declaration

(TYPE OR PRINT NAME)

(SIGNATURE OF

☐ SUBPOENAING PARTY

☐ ATTORNEY FOR  
SUBPOENAING PARTY)

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the date on which you are to appear. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code, § 54.8.)



(Proof of service on page 3)

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UNITED STATES DISTRICT COURT  
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DEMAYAN,

Appellant,

vs.

TONY FU, CRYSTAL LEI, WEI SUEN,  
 BRYANT FU, and STELLA HONG  
 CHEN,

Appellees.

) CASE NO. 3:11-cv-01814-RS

)  
 )  
 ) **DECLARATION OF MARK A. SERLIN IN**  
 ) **SUPPORT OF SUBPOENA DUCES**  
 ) **TECUM SERVED ON DEMAS YAN**

) Date: June 27, 2017  
 ) Time: 9:00 a.m.  
 ) Ctrm: F

I, Mark A. Serlin, declare:

1. I am an attorney duly licensed to practice law by the State of California and am counsel to judgment creditor Crystal Lei ("Lei") in the above-referenced matter. I make this declaration based on personal knowledge, and if called as a witness to testify as to matters stated herein, I would be willing and competent to do so.

2. Judgment debtor Demas Yan ("Debtor") has been ordered to appear for a debtor's examination pursuant to Code of Civil Procedure § 708.110, *et seq.* The debtor's examination is necessary in order for Lei to determine the assets of the Debtor so Lei may take steps to enforce the judgment against Debtor.

///

3. In that regard, it is necessary and appropriate that Lei have access to documents in Debtor's possession, custody, and/or control which reflect upon the Debtor's assets. The documents to be produced at the debtor's examination are as follows:

#### **DEFINITIONS AND INSTRUCTIONS**

Unless the context indicates otherwise, the following words and phrases will be defined and used herein as follows:

A. Debtor Demas Yan is referred to herein as "DEBTOR" and use of the term "DEBTOR" refers to all of DEBTOR's past and present attorneys, accountants, employees, agents, representatives, corporations, predecessor or successor corporations, partnerships and anyone else acting on DEBTOR's behalf or otherwise subject to its control.

B. "PERSON" as used herein refers to and includes any natural individual, governmental entity or business entity, including a corporation or partnership, association or other entity or combination thereof, and all corporations, divisions, or entities affiliated with, owned or controlled directly or indirectly by, or owning or controlling directly or indirectly any such entities, as well as directors, officers, employees, agents, attorneys or other representatives thereof, or third parties retained by any of the above.

C. "DOCUMENT" as used herein refers to and includes any kind of written, typewritten or printed material, any kind of graphic material, or any kind or electronic or mechanically recorded material, including facsimiles and computer discs, however produced or reproduced, whether draft or final, whether signed or unsigned, including each original and nonidentical copy, whether different from the original by means of notes made on such copy or otherwise, and if the original is not in existence, the best copy or reproduction thereof.

D. "COMMUNICATION" as used herein refers to any transmission or transfer or information of any kind orally, in writing, or in any other manner, at any time or place, and under any circumstances whatsoever.

E. The phrases "RELATING TO", "RELATED TO" and "RELATES TO" as used herein mean summarizing, describing, regarding, containing any record of, reference to or indication of, or referring to in any way.

1 The time period covered by these document requests is January 1, 2012 through and  
2 including the examination date.

3 **DOCUMENTS TO BE PRODUCED**

- 4 1. All bank statements for any and all deposit accounts held by DEBTOR.
- 5 2. All check registers for any and all checking accounts over which DEBTOR has had  
6 any control and/or signature authority.
- 7 3. All DOCUMENTS evidencing title to any real property in which DEBTOR has any  
8 interest.
- 9 4. All DOCUMENTS RELATING TO any real property in which DEBTOR holds or  
10 held any interest, in whole or in part.
- 11 5. All DOCUMENTS RELATING TO the value of any interest in any real property  
12 owned by DEBTOR.
- 13 6. All lease DOCUMENTS by which DEBTOR has leased space.
- 14 7. All DOCUMENTS RELATING TO any rental of real property by DEBTOR.
- 15 8. All financial statements of DEBTOR.
- 16 9. All DOCUMENTS RELATING TO any loans by any PERSON to DEBTOR.
- 17 10. All DOCUMENTS RELATING TO any loans by DEBTOR to any PERSON.
- 18 11. All DOCUMENTS of title for any vehicles owned or leased in whole or in part by  
19 DEBTOR.
- 20 12. All registration certificates for any vehicles owned or leased in whole or in part by  
21 DEBTOR.
- 22 13. All DOCUMENTS evidencing any securities accounts owned or controlled by  
23 DEBTOR.
- 24 14. All DOCUMENTS RELATING TO any corporation, partnership, and/or limited  
25 liability company owned or controlled, in whole or in part, by DEBTOR.
- 26 15. All pleadings in any legal proceeding in which DEBTOR is a party. For the  
27 purposes of this request, the term "pleading" includes any complaint, cross-complaint, amended  
28 complaint, answer, amended answer, petition, response to a petition, order, and/or judgment.

- 1           16.     All stock certificates for stock owned by DEBTOR.
- 2           17.     All bonds owned by DEBTOR.
- 3           18.     All financial DOCUMENTS for any and all businesses owned and/or operated by
- 4 DEBTOR, in whole or in part. Without limiting the generality of the foregoing, the
- 5 DOCUMENTS in this category include profit and loss statements, cash flow statements, accounts
- 6 receivable aging reports, general ledgers, and the like.
- 7           19.     All loan DOCUMENTS for any obligation owed by DEBTOR, including but not
- 8 limited to any promissory notes, credit agreements, and applications for such credit.
- 9           20.     All DOCUMENTS evidencing any security agreement in which DEBTOR grants
- 10 any PERSON a security interest in any property.
- 11           21.     All DOCUMENTS which reflect any deposit accounts held or controlled by
- 12 DEBTOR or over which DEBTOR has/had signature authority.
- 13           22.     All DOCUMENTS RELATING TO any judgments in favor of DEBTOR, whether
- 14 unsatisfied in whole or in part.
- 15           23.     All DOCUMENTS RELATING TO any trust in which DEBTOR is a trustor,
- 16 trustee, or beneficiary.
- 17           24.     All reports prepared by any bookkeepers, accountants, or certified public
- 18 accountants employed by DEBTOR or any business owned or controlled by DEBTOR.
- 19           25.     All DOCUMENTS RELATING TO any safe or safe deposit box owned or held by
- 20 DEBTOR or any entity owned or controlled by DEBTOR.
- 21           26.     All DOCUMENTS RELATING TO any rare coins, stamps, jewelry, antiques,
- 22 and/or works of art in which DEBTOR has an interest.
- 23           27.     All DOCUMENTS RELATING TO any sources of income of DEBTOR,
- 24 including, but not limited to, management contracts and the like.
- 25           28.     All DOCUMENTS RELATING TO any policies of insurance (including, but not
- 26 limited to, life insurance) in which DEBTOR has any interest.
- 27           29.     All DOCUMENTS RELATING TO any IRA, pension, or other retirement fund or
- 28 plan in which DEBTOR has any interest.

1           30. All DOCUMENTS RELATING TO any transfer of assets by DEBTOR to any  
2 PERSON other than in the normal course of DEBTOR's business.

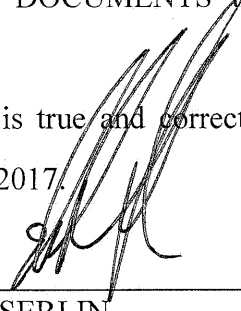
3           31. All DOCUMENTS RELATING TO the closure of any business operated by  
4 DEBTOR.

5           32. All DOCUMENTS RELATING TO the closure of any bank accounts held or  
6 controlled by DEBTOR.

7           33. All DOCUMENTS RELATING TO any storage facility used by DEBTOR to store  
8 any assets or records.

9           34. All DOCUMENTS RELATING TO any COMMUNICATIONS between  
10 DEBTOR and any financial institution at which DEBTOR has held any account including, without  
11 limitation, all correspondence, notes of conversations, and DOCUMENTS transmitted by  
12 facsimile.

13           I declare under penalty of perjury that the foregoing is true and correct and that this  
14 declaration was executed at Sacramento, California, on May 9, 2017.

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16 \_\_\_\_\_  
17 MARK A. SERLIN  
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S:\Active Files\LEI & FU\federal court action\court docs\oex subpoena.mas decl.docx

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

- - - - -  
DEMAS YAN, )  
Appellant, ) CASE NO.  
vs. ) 3:11-CV-01814-RS  
TONY FU, CRYSTAL LEI, )  
WEI SUEN, BRYANT FU, )  
and STELLA HONG CHEN, )  
Appellees. )  
- - - - -

ORDER OF EXAMINATION RE:  
DEMAS YAN  
TUESDAY, JUNE 27, 2017  
VOLUME 1; PAGES 1 - 80

HANNAH KAUFMAN & ASSOCIATES, INC.  
Certified Shorthand Reporters  
San Francisco Executive Park  
150 Executive Park Blvd., Suite 4600  
San Francisco, California 94134-3333  
(415) 337-2077

Reported by:  
CANDACE HOLROYD, CSR 137

Hannah Kaufman & Associates, Inc.

1 any rent for the 7th Avenue property?

2 A. No, I don't.

3 Q. Was it within the last year?

4 A. No.

5 Q. Okay. Mr. Yan, you were served with a subpoena  
6 duces tecum to bring records, various documents to this  
7 examination. Did you bring any documents with you  
8 today?

9 A. Not in the paper form.

10 Q. Did you bring them in any form?

11 A. I have it in electronic form. But also, before  
12 I begin, I want to lay the groundwork here.

13 What was the -- so, what is the justification  
14 for this examination? What judgment are you claiming  
15 that I owe?

16 Q. Well, there is the judgment that was entered by  
17 the Ninth Circuit that was entered on June 24th, 2016,  
18 for \$37,000 and change.

19 A. Okay. That one I have no issues with.

20 Q. Okay. Well, you haven't paid it. That's why we  
21 are here.

22 A. Another reason why I am here?

23 Q. No, that is the one.

24 Have you got a payment? We can end this right  
25 now. Just cut the check.

CERTIFICATE OF REPORTER

I, Candace Holroyd, Certified Shorthand Reporter  
No. 1370, do hereby certify the following:

That the within-entitled ORDER OF EXAMINATION OF  
DEMAS YAN was reported by me at the time and place  
mentioned herein;

That I am not of counsel or attorney for any of  
the parties in the caption, nor in any way interested in  
the outcome of the cause named in said caption;

That the proceeding was transcribed by computer  
by me or under my supervision to the best of my ability,  
and that the within transcript is complete and correct.

DATED:

7-1-2017



CANDACE HOLROYD, CSR 1370

**SERLIN &  
WHITEFORD, LLP**  
ATTORNEYS AT LAW

700 E Street  
Sacramento, CA 95814

Telephone (916) 446-0790  
Telecopier (916) 446-0791

Mark A. Serlin  
mserlin@globelaw.com

Kevin P. Whiteford  
kwhiteford@globelaw.com

June 29, 2017

**VIA EMAIL**

Demas Yan  
100 Pine Street #1250  
San Francisco, CA 94111

**Re: Demas Yan v. Tony Fu, et al.**  
U.S. District Court, Northern District Case No. 3:11-cv-01814-RS

Dear Mr. Yan:

You're lucky that the Court did not hold you in contempt for failure to bring documents which we properly subpoenaed to the debtor's examination earlier this week. In any case, you need to produce the documents that you promised to send me via email forthwith. Those documents should include the last 3 years of your tax returns, any and all documents pertaining to the Fung judgment assignment, all documents relating to the sale of your condominium in Hong Kong, all documents relating to any bank accounts over which you have signature authority, all documents relating to payments for office rent, utilities, and the like, all documents reflecting billing statements sent to clients, all documents relating to accounts receivable of yours, all credit card bills, and all other documents required by the subpoena. At the risk of stating the obvious, any objections that might have been made to the subpoena have long since been waived by reason of your failure to either file objections or file a motion to quash. If the documents required by the subpoena are not produced forthwith, I will seek a contempt order against you.

Very truly yours,

  
MARK A. SERLIN

MAS/ms

Cc: Clients  
S:\Active Files\LEI & FU\federal court action\corres\yan.ltr1.docx

Exhibit D